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SUBJECT: REFUGEE RETURNS: MISSED BENCHMARKS BUT CONTINUED  
COMMITMENT

REF: A. ZAGREB 468  
[1](#)B. ZAGREB 357

[1](#)1. (U) SUMMARY: In a September 17 meeting with ambassadorial-level representatives of the international community (IC), the Minister of Regional Development, Forestry and Water Management, Petar Cobankovic, renewed the GOC's commitment to complete the process of resettling former occupancy/tenancy right holders (OTRs- Serb refugees who had been tenants in state owned properties before the war). Cobankovic presented the GOC's 2009 benchmark of 2462 housing units, which will bring the process or resettlement close to completion. He acknowledged, however, that the GOC, in consultation with a small number of affected returnees, would meet the 2007 benchmark target only in the Spring of 2009. Similarly, because of slow construction during the winter season, a small number of the housing units targeted for 2008 would slip into 2009. The presence of high-level officials from the Ministry of Foreign Affairs and Croatia's EU accession negotiation team at the meeting underlined the strong link between Croatia's performance on returns and its progress toward the EU. Other topics of discussion included the shape of the government's new appeals body for rejected applications, regional discrepancies in application decisions, and progress made towards convalidation of working time during the war.  
END SUMMARY.

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2007 Benchmark: Delayed Completion Threatens Chapter 23 Negotiations  
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[1](#)2. (U) In the meeting between ambassadorial-level representatives of the European Commission, UNHCR, U.S. Embassy, the Zagreb based office of the OSCE, and senior level GOC officials, Minister Cobankovic acknowledged that delivery of the 1400 housing units allocated to OTRs as part of the GOC's 2007 benchmark would likely not be complete until May, 2009. The approach of winter, and other factors, meant that needed construction activities in two apartment blocks in rural areas would be hard to complete before then. Completion of this benchmark is one of the prerequisites for opening Chapter 23 EU accession negotiations (Judiciary and Human Rights). The GOC says it will have the majority of outstanding units ready by the end of 2008, but estimates that it will fall short of the total by 10 housing units. Cobankovic maintained that the affected families preferred to accept late delivery, rather than be moved over the winter. In the meantime, GOC agreed to pay the rent of an estimated 51 families until their housing units are delivered. The senior members of the IC welcomed this interim measure but stressed that this measure is only palliative and rent payments could not be considered a permanent solution. The IC stressed that any delays in delivering the units beyond May 2009 would be unacceptable. (NOTE:

The GOC keeps separate lists of beneficiaries for the 2007 and 2008 benchmarks. The process of fulfilling these benchmarks is done in parallel and not on a 'first come, first served' basis. This creates a dichotomy wherein the GOC has allocated approximately 600 apartments for its 2008 benchmark even though it has not yet completed its 2007 target. Were the 2008 benchmark apartments to be counted towards the 2007 benchmark, the 2007 benchmark would have been met some time ago. END NOTE).

13. (SBU) Croatia's chief negotiator for EU Accession, Ambassador Vladimir Drobnyak, asked the IC representatives, in particular EC Delegation Head Degert, whether EU would consider the current status adequate to verify that Croatia had met the required "opening benchmark" for the purposes of beginning Chapter 23 negotiations with the EU. Degert said he could not answer the question, as that decision has to be made by member state representatives in the EU Council. Failure to make further progress would potentially delay any such decision. Drobnyak said that if the EU did not consider the opening benchmark met then the GOC would continue construction, and move the affected families, despite poor conditions, in order to meet the benchmark. (NOTE: At a private lunch last week, the head of UNHCR Croatia, Wilfried Buchhorn, told POLCOUNS that has UNHCR recommended to the EC that the 2007 benchmark be considered met, given the number of 2008 allocations already made. END NOTE).

14. (U) The GoC also noted that 68 families who have been allocated some of the 400 units within Areas of Special State Concern (essentially, the territory held by rebel Serbs during the war) have yet to retrieve the keys for their units. The GOC agreed to work with OSCE and UNHCR to try and locate these families within a month and determine whether the families still intend to move into their

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units. Units that are no longer desired will be reallocated to other families awaiting housing.

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2008 Benchmark: Progress But No Completion Until 2009  
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15. (U) In parallel with the 2007 benchmark process, the GOC said it has also allocated approximately 40 percent of the 1400 housing units promised as part of its 2008 benchmark. GOC acknowledged that it would not complete all 1400 units in this benchmark by the end of 2008, but foresees completion no later than June 2009. Members of the IC expressed special concern for the lack of progress in the areas outside the ASSC. Cobankovic stated that progress was slow due in large part to the high price of real estate in coastal and urban areas, such as Dubrovnik or Split. The government's current price cap per square meter for apartment space is far below the market prices for real estate in costal areas. (NOTE: Interestingly, the same problem does not exist in Zagreb, where the government reports it has a more than sufficient number of units available. END NOTE). The government is seeking to amend the ordinance regulating real estate transactions to increase the amount they are able to pay. The state secretary for the Ministry of Physical Planning, Zoning and Construction, Aleksandar Russo, stated that they would soon open tender for properties to purchase in these areas. Should no offers be received, the government will consider buying land and building apartments itself.

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Appeals: The New Appellate System, and Regional Bias in the Initial Decisions  
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16. (U) The government has recently sent 1400 negative decisions to housing care applicants. Recipients have 15 days to appeal this decision, and as of mid-September approximately 80 appeals have been received. The government's new appellate body (REF A) has not yet begun to review these cases. The State Secretary for Regional Development, Forest and Water Management, Milivoj Mikulic, explained that the new body would consist of two lawyers and another worker from the Department for the Areas of Special State Concern. The director of this office would verify the decision of these three. If the original refusal is confirmed, further appeal is possible

through the use of the court system. The GOC hopes to complete all administrative appeals by the end of October in order to include any overturned refusals in the 2009 benchmark. The IC encouraged the progress the GOC has made in administratively resolving applications and called for a transparent and fair appeals process.

¶7. (U) In previous meetings (REF B) the GOC agreed to partake in a joint review with UNHCR of all negative decision cases made outside the ASSC, before these rejections were sent to the applicants. UNHCR reviewed roughly 500 of these 850 cases and of these, 40 percent were sent back by UNHCR for further review to the original decision making bodies. UNHCR noted that there was a lack of consistency in the decisions of regional offices and the bulk of the 40 percent were concentrated in a few jurisdictions. The GoC's Zagreb office was particularly problematic, and many negative decisions appeared to be unfounded. The GOC acknowledged that the majority of negative decisions in Zagreb can be attributed to one official, but due to local labor law their options to resolve this problem are limited. As a temporary solution, other regional offices have begun to review Zagreb's decisions. The IC reps pointed out that this problem further delays the government's progress towards its 2008 benchmark and encouraged the government to review the situation and find a permanent solution.

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2009 Benchmark: Unrealistic Goals?  
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¶8. (U) Minister Cobankovic also presented a revised benchmark goal of 2462 housing units to be allocated in 2009. This number took into consideration an estimation of positive decisions to be made in cases not yet administered and in cases currently awaiting appeal, and would effectively bring the process of resettlement of OTRs to a close. Cobankovic estimated that this goal could be met by the spring of 2010. Though this target has been reduced from previous estimates, the IC still expressed concern that this goal might be unrealistic given the government's inability to reach even the lower targets from 2007 or 2008. The IC stressed that further slippage in

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meeting declared targets only damaged Croatia's credibility, especially as regards Croatia's EU accession negotiations, and urged the GOC to make realistic estimates.

¶9. (U) Cobankovic replied that he understood why there were low expectations, but insisted that progress on the 2009 benchmark would be faster than previous years. Changes in the government and new laws affecting refugee returns slowed progress during 2008, but with the adjustment phase past, Cobankovic appeared optimistic. Cobankovic did agree to review the benchmark and called for a meeting at the beginning of October with the IC to review the government's 2009 construction plan.

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Convalidation  
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¶10. (U) In May 2008 the GOC implemented a new ordinance allowing for the convalidation of pensions and the crediting of service in the former Serb Occupied areas to pensioners. The GOC presented the first statistics regarding the implementation of said ordinance at the meeting. To date they have received 3223 applications for convalidation of working years. 82 of these cases have been resolved. 37 of the 82 cases received positive decisions and 45 received negative decisions. In regard to pensions the government has received 173 requests and has resolved 129 of these cases. All 129 received positive decisions. The IC encouraged the progress the GOC has made in this regard and asked to receive regular statistical reports regarding this issue.

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COMMENT  
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¶11. (SBU) The bureaucracy of this entire process threatens to obscure the real picture. While a number of cases (in the low three

digits) remain from the 1400 units allocated under the 2007, the GoC at the same time has resolved more than that number from its 2008 caseload. The EU's decision, expected prior to the issuance of the annual Progress Report due in early November, will therefore be a political one as to whether the GoC has demonstrated adequate performance on returns. The commitment on the government's part to pay rent for 2007 benchmark applicants who do not yet have their homes, and the presence of senior MFA officials at working level and principal level meetings indicate that the GOC understands the importance and urgency of resolving this issue in as timely a manner as possible. In our view, the government is committed to resolving this issue, albeit not as quickly as their overly ambitious declared targets claim. As Croatia moves further into EU accession negotiations the pace for resolving refugee return issues will likely quicken, but it appears this is an issue Croatia will continue to be working on into 2010 and probably beyond. END  
COMMENT

BRADTKE